

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT UPTON,

Plaintiff,

v.

CV No. 19-482 CG

ANDREW SAUL, Commissioner
of the Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on Plaintiff's *Unopposed Motion for EAJA Fees* (the "Stipulated Motion"), (Doc. 42), filed June 18, 2020. The Court, having reviewed the Stipulated Motion under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, finds the Stipulated Motion is well-taken and attorney fees shall be awarded, made payable to Plaintiff but mailed to Plaintiff's attorney in the amount of \$7,500.00. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS THEREFORE ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE